THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 26799 of 1998

Dated: 19.09.2007

Between:

K.V Rama Rao

..... PETITIONER

AND

The Managing Direcor,
The A.P.S.R.T.C.,
Musheerabad, Hyderabad and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 26799 of 1998

Order:

The present writ petition is filed questioning the order No. E1/1(31)/95-GVRM dated 14.9.1995 removing the petitioner from service as confirmed in the appeal by order No.PA/19(22)/98-Dy.C.T.M dated 3.3.1998 and the Review order No.PA/19(7)/98-ED/Vja dated 24.4.1998 insofar as denying continuity of service and backwages.

The petitioner, who is working as Driver with the respondent-Corporation, was issued with a charge sheet dated 27.5.1995 alleging unauthorized absence from 22.5.1995 to 27.5.1995. Having not satisfied with the explanation offered by the petitioner, disciplinary proceedings were initiated against the petitioner by ordering enquiry, which ended in removal of the petitioner by proceedings dated 14.9.1995. The appeal preferred by the petitioner was rejected by order dated 3.3.1998. Against the rejection of appeal, petitioner preferred a review, and the Review authority by its order dated 24.9.1998 modified the punishment imposed on the petitioner and ordered reinstatement as afresh driver. Hence, the present writ petition seeking continuity of service and backwages.

Learned counsel for the petitioner submitted that the review authority having regard to the fact that the petitioner could not attend to duties due to sickness ought to have directed reinstatement into service with continuity of service and backwages and erred in ordering reinstatement as afresh.

A counter affidavit was filed on behalf of the respondents stating that the petitioner is a habitual absentee and suffered

punishment of censure by proceedings dated 19.6.1991 and the leave record of the petitioner shows that he absented for duties for 242 days during April 1994 to May 1995 and is not interested in serving the corporation. It is stated that by order dated 14.9.1995 petitioner was removed from service and the petitioner has received the said order after lapse of two years i.e., on 15.12.1997 from Gannavaram depot and violated Regulation 11 of APSRTC Employees' (Leave) Regulations, 1963 which prescribe that one should inform about the sickness within 48 hours to the authorities. That keeping in view the negligence and disobedience the appeal filed by the petitioner was dismissed and the Review authority on humanitarian grounds and to give a last chance to the petitioner has modified the punishment and ordered afresh appointment vide proceedings dated 24.4.1998.

Heard the learned counsel for petitioner and learned Standing Counsel for respondent corporation.

Whether the denial of continuity of service and backwages, while ordering reinstatement by the Review Authority, is justified or not, is the only question for consideration in this writ petition. Admittedly, the petitioner has not informed about his illness and contends that his old aged parents admitted him in hospital, where he undergone treatment for about 1 ½ years and he was not in a position to inform the depot officials, which is in violation of Rule 11 of the APSRTC Employees (Leave) Regulations, 1963. The Review authority, having regard to the assurance given by the petitioner that he will discharge his duties without resorting for absenteeism in future, on humanitarian consideration though it fit to give a final chance to the petitioner and ordered reinstatement afresh. Thus, the reinstatement of the petitioner is purely on humanitarian consideration and for the proved misconduct denial of continuity of service and backwages, cannot be said to be disproportionate warranting interference of this Court. More over, the apex Court in ***Regional Manager, Rajasthan SRTC v. Sohan Lal***[1],

held that it is not within the normal jurisdiction of the superior courts to interfere with the quantum of sentence imposed by the disciplinary authority, unless it is shown that the sentence imposed is wholly disproportionate to the misconduct proved.

For the foregoing reasons, the writ petition fails and the same is liable to be dismissed and hereby dismissed. No costs.

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N.V. RAMANA, J.

Date: 19.9.2007
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THE HON'BLE SRI JUSTICE N.V. RAMANA

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[1] (2004) 8 SCC 218